

## **FISH and WILDLIFE COMMISSION AGENDA ITEM COVER SHEET**

**Meeting Date:** June 12, 2014

**Agenda Item:** Rules regarding the Placement of Fish into Montana Waters without Authorization

**Division:** Fisheries

**Action Needed:** Final

**Time Needed on Agenda for this Presentation:** 10 minutes

### **Background**

In January the F&W Commission proposed new rules regarding the placement of fish into Montana waters without authorization. The department is recommending that the commission adopt as final the new rules. The new rules would replace the department's policy entitled *Illegal and Unauthorized Introduction of Aquatic Wildlife*.

### **Public Involvement Process & Results**

The department conducted eight public hearings and solicited comments from January 30 - March 21, 2014. The department received sixty-five comments, with 45 supporting the proposed rules, 5 in opposition, and 15 not specific about their support or opposition. Forty-two comments also proposed specific changes to the rules. The most frequent comments were: 1) It is not acceptable for FWP to monitor an unauthorized fish population in lieu of immediately undertaking some type of suppression or eradication effort; 2) All information specific to unauthorized species should be made accessible to the public; 3) All unauthorized placements, past or present, should be addressed through this rule; 4) Increase penalties for those caught illegally introducing fish; 5) FWP should check first with licensed anglers before deciding which fish will live or die; and 6) Any action to remove or kill game fish shall include full compliance with MEPA.

### **Alternatives and Analysis**

The commission could adopt the rules with changes identified by the department in response to public comment. Alternatively, the commission could adopt the rules as originally proposed. Another alternative is to consider additional changes to the final rules. Additional changes, beyond those in response to public comment, might require additional opportunity for public comment.

### **Agency Recommendation & Rationale**

The department recommends that the commission adopt the final rules with three amendments in response to public comment:

Amend New Rule I to clarify that the department may respond to an unauthorized species, regardless of whether or not it has been proven that the presence of the fish was human-caused.

Amend New Rule II to include *risk* and *feasibility* as factors to evaluate before deciding to suppress or eradicate a species, which would provide flexibility when the risk posed by an unauthorized species is low (e.g. it is new to a water but within a drainage where it commonly occurs) or the feasibility of success is low (e.g. it is new to a large body of water where their densities are so low as to preclude effective suppression/removal).

Amend New Rule V to ensure that the electronic repository is available to the public.

### **Proposed Motion**

I move that the Commission adopt the rules for responding to the placement of fish into Montana waters without authorization with the amendments recommended by the department.